

COMP

LAGOMARSINO LAW

ANDRE M. LAGOMARSINO, ESQ.

Nevada Bar No. 6711

DAVEN P. CAMERON, ESQ.

Nevada Bar No. 14179

3005 W. Horizon Ridge Pkwy., Suite 241

Henderson, Nevada 89052

Telephone: (702) 383-2864

Facsimile: (702) 383-0065

aml@lagomarsinolaw.com

daven@lagomarsinolaw.com

Attorneys for Plaintiff Tom Koch

CLAGGETT & SYKES LAW FIRM

SEAN K. CLAGGETT, ESQ.

Nevada Bar No. 8407

JOSEPH N. MOTT, ESQ.

Nevada Bar No. 12455

4101 Meadows Lane, Suite 100

Las Vegas, Nevada 89107

Tel: (702) 655-2346

Fax: (702) 655-3763

sclaggett@claggettlaw.com

joey@claggettlaw.com

Attorneys for Plaintiff Heather Schoenwald

UNITED STATES DISTRICT COURT

DISTRICT OF NEVADA

HEATHER SCHOENWALD, an individual; CASE NO.:
TOM KOCH, an individual;

Plaintiffs,

v.

**COMPLAINT
WITH JURY DEMAND**

UNUM GROUP, a Foreign Corporation;
COLONIAL LIFE & ACCIDENT
INSURANCE COMPANY, A SUBSIDIARY
OF UNUM GROUP, a Foreign Corporation;
SCOTT WEBB, an individual; DOES 1 through
10; ROE CORPORATIONS, 1 through 10,

Defendants.

COME NOW, Plaintiff HEATHER SCHOENWALD ("SCHOENWALD") by and
through her counsel of record CLAGGETT & SYKES LAW FIRM, and Plaintiff TOM KOCH
("KOCH") by and through his counsel of record LAGOMARSINO LAW, and hereby file this
Complaint and Demand for Jury Trial against Defendants UNUM GROUP ("UNUM"),

COLONIAL LIFE & ACCIDENT INSURANCE COMPANY, A SUBSIDIARY OF UNUM GROUP (“COLONIAL LIFE”), and SCOTT WEBB (“WEBB”) and allege as follows:

PARTIES

1. SCHOENWALD is an individual who resided, at all times relevant herein, in Clark County, Nevada.

2. KOCH is an individual who resided, at all times relevant herein, in Clark County, Nevada.

3. UNUM is a Foreign Corporation doing business in Nevada and headquartered in Tennessee.

4. COLONIAL LIFE is a Foreign Corporation doing business in Nevada and headquartered in South Carolina.

5. WEBB is an individual who at all times resided in Arizona.

6. Defendants designated herein as Does and Roe Entities are individuals and legal entities that are liable to Plaintiffs for the claims set forth herein. In addition to possible alter egos of the above-named Defendants, if discovery should reveal other defendants, or any of their shareholders, members, partners, trusts, affiliated entities, family members, significant others or ex-spouses are participating in fraudulent transfers for the purpose of avoiding creditors such as Plaintiffs, then such defendants shall be added as defendants to this underlying action. Any transactions and the true capacities of Does and Roe Entities are presently unknown to Plaintiffs, and therefore, Plaintiffs sue such defendants by fictitious names. Plaintiffs will amend this complaint to assert the true names and capacities of such Doe and Roe Entities when more information has been ascertained.

JURISDICTION

7. This action is brought to remedy violations of the Plaintiffs’ rights under Title VII of the Civil Rights Act of 1964, 42 U.S.C. § 2000e, etc., Nevada Revised Statutes (“NRS”) § 613 *et seq.*, and the common law. This Court has jurisdiction under Title VII and supplemental jurisdiction over the claims arising under Nevada law pursuant to 28 U.S.C. § 1367 and the principles of pendent jurisdiction.

1 WEBB, she still interacted with him in meetings and at conferences because he was the Manager
2 of her Territory, and WEBB still exercised management authority over SCHOENWALD.

3 19. From November 2018 through April 2019, SCHOENWALD reported directly to
4 KOCH. KOCH took the safety of his subordinates, including SCHOENWALD, very seriously.

5 20. In or around March 2019, there was a training for Managers held in the Las
6 Vegas Office. WEBB attended that training. During that training, WEBB insisted on sitting in
7 and using SCHOENWALD'S office while SCHOENWALD was still in her office trying to
8 work, instead of using a vacant office that was available.

9 21. In or around April 2019, SCHOENWALD, KOCH, WEBB and other employees
10 of COLONIAL LIFE attended a conference in Las Vegas.

11 22. WEBB, who was already seated in the conference room prior to
12 SCHOENWALD's arrival, conspicuously changed seats to intentionally sit next to
13 SCHOENWALD at the conference.

14 23. During that conference, WEBB repeatedly engaged in harassing and inappropriate
15 conduct towards SCHOENWALD, including but not limited to the following:

- 16 a. WEBB wrote "I want to see Heather naked" on one of her business cards,
17 showed it to her, then put it in his mouth and chewed it up before
18 destroying it;
- 19 b. He wrote on post-it notes "You're so gorgeous" and showed them to
20 SCHOENWALD;
- 21 c. WEBB wrote "I love you" in SCHOENWALD'S notebook; and,
- 22 d. WEBB inappropriately placed his hand on SCHOENWALD'S leg without
23 her consent or permission, and despite her verbal and physical objections.

24 24. None of the foregoing behavior from WEBB was welcome by SCHOENWALD,
25 and she did not incite or entice WEBB to behave as he did.

26 25. During and after the Conference, SCHOENWALD reported these incidents to
27 KOCH, who was her direct supervisor at the time.

28 ...

1 26. After the April 2019 conference, SCHOENWALD and WEBB were supposed to
2 take a work trip to El Paso, Texas.

3 27. WEBB had his assistant schedule SCHOENWALD'S travel so that she would be
4 alone with him during a car ride and at the hotel. KOCH agreed to attend the trip as well when
5 SCHOENWALD expressed her discomfort traveling alone with WEBB.

6 28. WEBB questioned why KOCH had to attend the trip and made efforts to prevent
7 him from attending.

8 29. When SCHOENWALD experienced an injury, the trip had to be canceled.

9 30. WEBB rebooked the trip, but this time purposefully ensured that KOCH could not
10 attend.

11 31. On or about May 7, 2019 SCHOENWALD traveled to Phoenix and then drove to
12 El Paso with WEBB and another executive.

13 32. On or about May 9, 2019, SCHOENWALD was in a car alone with WEBB.
14 WEBB began tearing up while telling SCHOENWALD personal details of his life, including
15 details about his marriage and his lack of a sexual relationship with his wife.

16 33. While in El Paso, WEBB offered to switch hotel room keys with
17 SCHOENWALD under the pretense that SCHOENWALD could come talk to him at any time.
18 SCHOENWALD refused.

19 34. Sometime after WEBB and SCHOENWALD returned from El Paso, WEBB used
20 his personal stationary to write an inappropriate letter to SCHOENWALD expressing his love
21 for her in the form of song lyrics, which he sent to her.

22 35. On or about May 13, 2019 SCHOENWALD, KOCH, and WEBB had to travel to
23 Dallas, Texas for work.

24 36. On or about May 13, 2019 there was a group dinner organized for all the
25 COLONIAL LIFE employees on the trip.

26 37. The group met in the lobby after dinner.

27 38. WEBB was intoxicated and pointed to SCHOENWALD and said, "I don't like
28 you. I'm not talking to you."

1 39. On or about May 14, 2019, WEBB made dinner reservations for the group.
2 KOCH was in Dallas, Texas at the time but did not attend the dinner.

3 40. At some point in the evening, KOCH called SCHOENWALD'S cell phone. When
4 WEBB saw that KOCH was calling, he said, "It's your boyfriend." SCHOENWALD and KOCH
5 have never had a romantic relationship.

6 41. After dinner, WEBB, SCHOENWALD, and KOCH were at a restaurant bar with
7 co-workers.

8 42. WEBB, who was visibly intoxicated, put his hands on SCHOENWALD'S legs.

9 43. WEBB then grabbed SCHOENWALD on the head and forced her face into his,
10 rubbing his nose on SCHOENWALD'S nose and called her "honey."

11 44. SCHOENWALD immediately pulled away and objected. She told WEBB to stop
12 and that she did not like or approve of what he was doing.

13 45. KOCH was also present and witnessed WEBB'S actions. KOCH told WEBB to
14 stop immediately and to not call her "honey" because it was inappropriate.

15 46. Once back at the hotel, WEBB continuously called, texted, and emailed
16 SCHOENWALD, trying to get her to speak to him.

17 47. SCHOENWALD relayed WEBB'S actions to her co-worker, who was her
18 roommate during the Dallas trip.

19 48. SCHOENWALD spoke to KOCH after the trip to Dallas and expressed her
20 frustration and disgust at WEBB'S harassment. KOCH asked SCHOENWALD if she wanted
21 WEBB'S conduct to stop and if he had her permission to intervene. SCHOENWALD
22 affirmatively stated that she was uncomfortable and wanted WEBB'S conduct to stop.

23 49. After SCHOENWALD objected to WEBB'S advances in Dallas, he began
24 ignoring her calls and emails, making it difficult for her to do her job.

25 50. WEBB was in the Las Vegas office to perform manager reviews the week of May
26 27, 2019.

27 51. KOCH took this opportunity to speak with WEBB regarding his behavior. In an
28 attempt to keep his subordinates safe, KOCH instructed WEBB to cease all harassing behavior

1 towards SCHOENWALD.

2 52. On or about May 31, 2019, SCHOENWALD was attempting to leave her office
3 for the day when WEBB cornered her in her office, physically preventing her from leaving, and
4 closed her office door.

5 53. WEBB told SCHOENWALD that the reason that he had not been communicating
6 with her since the Dallas trip was that he feared that she was going to complain about him to
7 Human Resources.

8 54. SCHOENWALD continuously told WEBB that she wanted to leave. Finally, he
9 moved aside and let her leave her office.

10 55. KOCH witnessed this event, and after it occurred, WEBB threatened KOCH and
11 told him to convince SCHOENWALD to change her story and to not report WEBB to Human
12 Resources.

13 56. Following WEBB'S attack on both Plaintiffs, KOCH immediately called Human
14 Resources to complain about WEBB'S actions towards SCHOENWALD to protect her from
15 future and continued harassment.

16 57. On or about June 2, 2019, after leaving three (3) separate voicemails with Human
17 Resources, KOCH finally spoke to Human Resources Consultant Matthew McWilliams about
18 WEBB'S conduct.

19 58. On June 3, 2019 SCHOENWALD and KOCH submitted separate written
20 complaints to Human Resources concerning WEBB'S conduct.

21 59. After SCHOENWALD submitted her written complaint to Human Resources,
22 WEBB began engaging in conduct designed to prevent SCHOENWALD from performing her
23 job.

24 60. Specifically, among other things, Webb:

25 - Excluded SCHOENFELD from recruiting meetings in which she needed to participate
26 to do her job;

27 - Intentionally left SCHOENWALD off group texts that were necessary to her job;

28 - Ignored SCHOENWALD's work emails and calls; and,

1 - Removed SCHOENWALD from meetings that SCHOENWALD was scheduled to
2 attend.

3 61. WEBB'S actions made it impossible for SCHOENWALD to continue to do her
4 job effectively.

5 62. On or about June 17, 2019, SCHOENWALD was interrogated by Tiffany Harley,
6 a member of the COLONIAL LIFE Human Resources team.

7 63. SCHOENWALD was lied to in that she was not told about the interview but was
8 instead led to believe that the team was having a meeting with Mike Keller to discuss recruiting,
9 training, and development.

10 64. SCHOENWALD was forced into a room alone with Ms. Harley. She was
11 interrogated about issues that had nothing to do with her Complaint to Human Resources
12 regarding WEBB.

13 65. Instead of gathering facts about WEBB's inappropriate and unprofessional
14 conduct, Ms. Harley pressed SCHOENWALD regarding gossip and false rumors related to
15 SCHOENWALD.

16 66. During the interrogation, Ms. Harley intimated that SCHOENWALD was at fault
17 for the harassment and abuse she faced from WEBB because of her actions at other, unrelated
18 events.

19 67. During the interrogation, Ms. Harley did not ask any questions about the events
20 that were the subject of SCHOENWALD'S Complaint to Human Resources.

21 68. SCHOENWALD at one point asked to leave the room to get her notes and was
22 told by Ms. Harley that she could not leave the room.

23 69. SCHOENWALD was interrogated in the room alone for hours.

24 70. Ms. Harley took SCHOENWALD'S work phone.

25 71. There was no other third-party or witness in the room while Ms. Harley was
26 interrogating SCHOENWALD.

27 ...

28 ...

1 72. On or about June 17, 2019 KOCH was also placed in a separate room with
2 Human Resources representative Mr. McWilliams under false pretenses and interrogated about
3 issues having nothing to do with the complaint against WEBB.

4 73. Mr. McWilliams took KOCH's cell phone prior to the interview.

5 74. KOCH was interrogated about purported "inappropriate" behavior, including a
6 group karaoke performance and being on the same phone call as a separate individual who made
7 inappropriate sexual gestures.

8 75. KOCH was also interrogated regarding SCHOENWALD's behavior. None of Mr.
9 McWilliams' questions were related to the WEBB complaints.

10 76. During the interrogation, Mr. McWilliams asked KOCH whether he had ever
11 participated in "inappropriate" Facetime calls with SCHOENWALD. KOCH responded that he
12 had not.

13 77. Later, KOCH referenced a four-way Facetime call that took place in Dallas,
14 Texas. KOCH, WEBB, and SCHOENWALD were involved in this call.

15 78. Mr. McWilliams accused KOCH of providing false information and testifying
16 that he had never participated in Facetime calls with SCHOENWALD.

17 79. KOCH clarified that this was untrue. He had testified that he never participated in
18 "inappropriate" Facetime calls with SCHOENWALD but never denied participating in Facetime
19 calls in general.

20 80. Upon information and belief, Ms. Harley, Mr. McWilliams, and WEBB have
21 conspired with one another on prior occasions to retaliate against other employees with whom
22 WEBB had issues.

23 81. Upon information and belief, Ms. Harley and Mr. McWilliams assisted WEBB in
24 getting certain employees terminated and manufacturing evidence against them.

25 82. After the interrogation, KOCH was unlawfully terminated on June 25, 2019.

26 83. After SCHOENWALD was interrogated, she was unlawfully terminated on June
27 28, 2019.

28 ...

1 84. Ms. Harley and Mr. McWilliams were required to follow UNUM policies and
2 procedures while investigating SCHOENWALD'S and KOCH'S Complaints about WEBB.

3 85. UNUM has an anti-retaliation policy that states the following: "Unum will not
4 tolerate retaliation of any kind. If you raise a good faith concern or cooperate in the investigation
5 of such a concern, you will not be at risk of losing your job or suffering any form of retribution
6 as a result. Good faith does not mean that the employee has to be right; but, it does mean that the
7 employee believes he/she is providing truthful and accurate information."

8 86. In UNUM'S policies, retaliation is defined as follows: "Retaliation is any adverse
9 action taken by an employer against an employee or former employee because they raised a good
10 faith concern or cooperated in an investigation of such a concern. Adverse actions can include
11 demotion, discipline, firing, salary reductions, or shift reassignment but retaliation can also be
12 subtle. Therefore, sometimes it is hard to tell whether retaliation is occurring. It is important to
13 understand that only changes that have an adverse effect on your employment are retaliatory."

14 87. In UNUM'S policies, bullying is defined as follows: "Bullying or abusive
15 behavior of any kind, whether on company property or off-site at a business function, is not
16 allowed and will not be tolerated. Bullying and abusive behavior can include words, actions, or
17 any behavior that creates an offensive, abusive, intimidating, or hostile workplace."

18 88. WEBB'S conduct towards SCHOENWALD was egregious. As a result of his
19 negligent, reckless, and/or intentional conduct, SCHOENWALD has suffered extreme emotional
20 distress, depression, sadness, anxiety, and anger. SCHOENWALD was humiliated by WEBB'S
21 actions and then further humiliated by the interrogation and lack of a credible investigation by
22 Ms. Harley.

23 89. UNUM'S and COLONIAL LIFE'S conduct towards SCHOENWALD was
24 egregious. As a result of their negligent, reckless, and/or intentional conduct, SCHOENWALD
25 has suffered extreme emotional distress, depression, sadness, anxiety, and anger.
26 SCHOENWALD was humiliated by UNUM'S and COLONIAL LIFE'S actions and then further
27 humiliated by the interrogation and lack of a credible investigation by Ms. Harley.

28 ...

1 90. UNUM'S and COLONIAL LIFE'S conduct towards KOCH was also egregious.
2 As a result of their negligent, reckless, and/or intentional conduct, KOCH has suffered extreme
3 emotional distress, depression, anxiety, and frustration. KOCH was humiliated by UNUM'S and
4 COLONIAL LIFE'S interrogation and lack of a credible investigation by Mr. McWilliams.
5 KOCH was further humiliated when he was unlawfully terminated in retaliation for reporting
6 WEBB'S sexual harassment to Human Resources.

7 91. SCHOENWALD was targeted by Ms. Harley and WEBB for termination in
8 retaliation for her Complaint against WEBB.

9 92. Ms. Harley, Mr. McWilliams, and WEBB had a pattern of conspiring to terminate
10 employees who had issues with WEBB in violation of UNUM policies and procedures and
11 applicable federal and state law.

12 93. Ms. Harley was an employee of UNUM and COLONIAL LIFE when she took the
13 actions complained of herein.

14 94. Mr. McWilliams was an employee of UNUM and COLONIAL LIFE when he
15 took the actions complained of herein.

16 95. SCHOENWALD has suffered loss of income, benefits, and 401K contributions
17 because of her unlawful termination.

18 96. KOCH suffered loss of income, benefits, and 401K contributions because of his
19 unlawful termination.

20 97. WEBB'S conduct and physical touching of SCHOENWALD was unwelcomed,
21 not consented to, and offensive to a reasonable person.

22 98. UNUM'S, COLONIAL LIFE'S, and WEBB's conduct was severe and pervasive.
23 It was of the kind that would shock the conscience of any reasonable person and was of the kind
24 that is not acceptable in a civilized society.

25 99. On or about March 23, 2020 SCHOENWALD submitted a Charge for sex
26 discrimination and retaliation to the EEOC.

27 100. On or about August 17, 2020 SCHOENWALD received a Notice of Right to Sue
28 from the EEOC.

1 112. SCHOENWALD suffered adverse economic impact due to UNUM'S and
2 COLONIAL LIFE'S unlawful treatment of her, including her termination.

3 113. SCHOENWALD was embarrassed, humiliated, angered, depressed, and
4 discouraged by the discriminatory actions taken against her.

5 114. SCHOENWALD suffered compensable emotional and physical harm, including
6 but not limited to, sleeplessness, anxiety, depression, hopelessness, and helplessness resulting
7 from this unlawful discrimination by UNUM and COLONIAL LIFE.

8 115. SCHOENWALD is entitled to be fully compensated for her emotional
9 disturbance by being forced to endure this discrimination.

10 116. Pursuant to the 1991 amendments to Title VII, SCHOENWALD is entitled to
11 recover punitive damages for UNUM'S and COLONIAL LIFE'S intentional repeated violations
12 of federal and state civil rights laws.

13 117. SCHOENWALD suffered damages in an amount to be determined by the Jury.

14 118. SCHOENWALD is entitled to an award of reasonable attorney's fees.

15 119. UNUM and COLONIAL LIFE are guilty of oppression, fraud, and/or malice,
16 express or implied, as UNUM and COLONIAL LIFE knowingly and intentionally discriminated
17 against SCHOENWALD because of her sex.

18 120. Therefore, SCHOENWALD is entitled to recover damages for the sake of
19 example, to deter other employers from engaging in such conduct and by way of punishing
20 UNUM and COLONIAL LIFE in an amount to be determined by a Jury.

21 **SECOND CAUSE OF ACTION**

22 **Discrimination and Harassment Based on Sex in Violation of NRS 613.330(1)(a)**

23 **(SCHOENWALD Against Defendants UNUM and COLONIAL LIFE)**

24 121. Plaintiffs repeat and reallege the foregoing allegations as if fully set forth herein.

25 122. NRS 613.330(1)(a) makes it illegal for an employer to discriminate against any
26 person with respect to the person's compensation, terms, conditions, or privileges of employment
27 because of her sex.

28 ...

1 123. UNUM and COLONIAL LIFE refused to take reasonably adequate steps to
2 prevent discrimination against SCHOENWALD by knowingly favoring employees not of
3 SCHOENWALD'S protected class.

4 124. UNUM and COLONIAL LIFE discriminated against SCHOENWALD when they
5 failed to treat her the same way as similarly situated employees not of SCHOENWALD'S
6 protected class.

7 125. SCHOENWALD was subjected to physical and verbal harassment by WEBB on a
8 pervasive and ongoing basis.

9 126. No other similarly situated persons, not of SCHOENWALD'S protected class,
10 were subject to the same or substantially similar conduct.

11 127. SCHOENWALD suffered adverse economic impact due to UNUM'S and
12 COLONIAL LIFE'S unlawful treatment of her, including her termination.

13 128. SCHOENWALD was embarrassed, humiliated, angered, depressed, and
14 discouraged by the discriminatory actions taken against her.

15 129. SCHOENWALD suffered compensable emotional and physical harm, including
16 but not limited to, sleeplessness, anxiety, depression, hopelessness, and helplessness resulting
17 from this unlawful discrimination by UNUM and COLONIAL LIFE.

18 130. SCHOENWALD is entitled to be fully compensated for her emotional
19 disturbance caused by Defendants' discrimination.

20 131. SCHOENWALD is entitled to recover punitive damages for UNUM'S and
21 COLONIAL LIFE'S intentional repeated violations of NRS 613.330 et. seq.

22 132. SCHOENWALD suffered damages in an amount to be determined by the Jury.

23 133. SCHOENWALD is entitled to an award of reasonable attorney's fees.

24 134. UNUM and COLONIAL LIFE are guilty of oppression, fraud, and/or malice,
25 express or implied, as UNUM and COLONIAL LIFE knowingly and intentionally discriminated
26 against SCHOENWALD because of her sex.

27 135. Therefore, SCHOENWALD is entitled to recover damages for the same of
28 example, to deter other employers from engaging in such conduct and by way of punishing

1 UNUM and COLONIAL LIFE in an amount to be determined by a Jury.

2 **THIRD CAUSE OF ACTION**

3 **Retaliation in Violation of 42 U.S.C. § 2000e-3**

4 **(SCHOENWALD Against Defendants UNUM and COLONIAL LIFE)**

5 136. Plaintiffs repeat and reallege the foregoing allegations as if fully set forth herein.

6 137. In violation of 42 U.S.C. § 2000e-3 and NRS Chapter 613, Defendants retaliated
7 against SCHOENWALD after she complained about acts that she reasonably believed were
8 discriminatory.

9 138. There may be more detrimental acts of which Plaintiffs are unaware which may
10 also constitute retaliation..

11 139. The actions and conduct by Defendants constitute illegal retaliation which is
12 prohibited by federal law.

13 140. SCHOENWALD suffered damages in an amount to be determined by a Jury.

14 141. SCHOENWALD is entitled to an award of reasonable attorney's fees.

15 142. Defendants are guilty of oppression, fraud, and/or malice, express or implied,
16 because Defendants knowingly and intentionally retaliated against Plaintiffs because they
17 complained of acts they considered discriminatory.

18 143. Therefore, SCHOENWALD is entitled to recover damages for the sake of
19 example, to deter employers from engaging in such conduct and by way of punishing Defendants
20 in an amount to be determined by a Jury.

21 **FOURTH CAUSE OF ACTION**

22 **Retaliation in Violation of 42 U.S.C. § 2000e-3**

23 **(KOCH Against Defendants UNUM and COLONIAL LIFE)**

24 144. Plaintiffs repeat and reallege the foregoing allegations as though fully set forth
25 herein.

26 145. 42 U.S.C. § 2000e-3 renders it illegal for employers to retaliate against employees
27 who have opposed unlawful employment practices as outlined in Title VII. Such opposition is
28 deemed protected activity under Title VII.

1 146. KOCH engaged in a protected activity under Title VII when he reported WEBB
2 on May 30, 2019 and June 3, 2019 for sexually harassing and discriminating against
3 SHOENWALD.

4 147. KOCH had a reasonable and good faith belief that the behavior he witnessed and
5 as described to him by SCHOENWALD constituted sexual harassment and discrimination and
6 was an unlawful employment practice.

7 148. Instead of investigating the KOCH'S complaints of sexual harassment against
8 WEBB, Defendants investigated the reporter, KOCH, and created pretextual reasons for his
9 unlawful termination on June 25, 2019.

10 149. But for KOCH's complaint to Human Resources against WEBB, KOCH would
11 not have been unlawfully terminated.

12 150. A reasonable person would have found Defendants' actions to investigate, lie, and
13 terminate KOCH materially adverse as it would dissuade a reasonable employee in KOCH'S
14 circumstances from complaining about sexual harassment in the workplace.

15 151. Defendants subjected KOCH to an adverse employment action by terminating
16 him after he lodged a complaint against WEBB, which constitutes a protected activity.

17 152. A causal link exists between KOCH'S protected activity and Defendants' adverse
18 employment action as Defendants terminated KOCH for lodging a complaint of sexual
19 harassment against WEBB.

20 153. KOCH'S termination of employment would not have occurred but for his
21 participation in a protected activity.

22 154. Defendants willfully engaged in an unlawful employment practice under 42
23 U.S.C. § 2000e-3 by terminating KOCH in retaliation for his complaint against WEBB.

24 155. Defendants are liable for the acts and omissions of its agents and employees.

25 156. Defendants, either directly or indirectly or by and through their agents, retaliated
26 against KOCH and caused him significant damages, injuries and losses by terminating his
27 employment for engaging in a protected activity.

28 ...

1 SCHOENWALD.

2 176. Therefore, SCHOENWALD is entitled to collect punitive damages from WEBB
3 in an amount to be determined by a Jury.

4 **SEVENTH CAUSE OF ACTION**

5 **Intentional Infliction of Emotional Distress**

6 **(SCHOENWALD Against Defendants)**

7 177. Plaintiffs repeat and reallege the foregoing allegations as if fully set forth herein.

8 178. An actor commits intentional infliction of emotional distress when that actor's
9 conduct was extreme or outrageous with either the intention of, or reckless disregard for, causing
10 emotional distress to another, and that the victim suffered severe or extreme emotional distress as
11 the actual and proximate result of the actor's conduct.

12 179. Defendants' conduct is that which is outside all possible bounds of decency and is
13 regarded as utterly intolerable in a civilized community.

14 180. Defendants' actions towards Plaintiffs including, but not limited to, WEBB's
15 touching SCHOENWALD inappropriately and without her consent, WEBB'S grabbing her face,
16 WEBB'S propositioning her, WEBB'S harassing her, WEBB'S cornering her in her office with
17 the intention of keeping her there, UNUM and COLONIAL LIFE'S unlawful termination of her,
18 Ms. Harley's interrogation of her, Ms. Harley's questioning of SCHOENWALD of personal
19 matters that had nothing to do with the Complaint SCHOENWALD filed, Ms. Harley's refusal to
20 let SCHOENWALD leave the room during her interrogation, Ms. Harley's inferences that
21 SCHOENWALD was at fault for WEBB'S conduct, UNUM and COLONIAL LIFE'S failure to
22 intervene upon learning of WEBB'S ongoing harassment of SCHOENWALD, and other acts
23 constitute oppressive conduct that was extreme and outrageous with the intention of, or reckless
24 disregard for, the emotional distress it caused SCHOENWALD.

25 181. SCHOENWALD suffered severe emotional distress as a result of Defendants'
26 actions. SCHOENWALD suffered from depression, anxiety, anger, feelings of helplessness,
27 feelings of hopelessness, fear of losing her income, fear of not being able to support her children,
28 constant fear of continued harassment and improper physical contact, and humiliation.

1 182. Defendants' conduct was the direct and proximate cause of injury to
2 SCHOENWALD.

3 183. UNUM and COLONIAL LIFE are vicariously liable for WEBB'S actions
4 because those actions were not independent ventures, were committed during the very tasks
5 assigned to WEBB by UNUM and COLONIAL LIFE, and were reasonably foreseeable.

6 184. SCHOENWALD has been forced to seek legal counsel to pursue her valid legal
7 claims against Defendants and she is therefore entitled to reasonable attorney's fees.

8 185. Defendants are guilty of oppression, fraud, and/or malice, express or implied,
9 because Defendants knowingly and intentionally caused harmful and offensive contract to the
10 person of SCHOENWALD with the intention of, or reckless disregard for, the damages that it
11 was causing to SCHOENWALD.

12 186. Therefore, SCHOENWALD is entitled to collect punitive damages from WEBB
13 in an amount to be determined by a Jury.

14 **EIGHTH CAUSE OF ACTION**

15 **Wrongful Termination**

16 **(SCHOEWALD Against UNUM and COLONIAL LIFE)**

17 187. Plaintiffs repeat and reallege the foregoing allegations as if fully set forth herein.

18 188. An employer commits tortious wrongful termination when the employer
19 improperly dismisses an employee for reasons that violate public policy.

20 189. Nevada has a strong public policy of encouraging employees to seek assistance
21 from Human Resources by filing a Complaint when the employee is being subjected to harassing
22 and improper conduct.

23 190. SCHOENWALD complied with this public policy by filing a Complaint with
24 Defendants' Human Resources department regarding WEBB'S conduct.

25 191. UNUM and COLONIAL LIFE retaliated against SCHOENWALD for filing her
26 Complaint by terminating her.

27 192. UNUM and COLONIAL LIFE'S conduct violated the strong and compelling
28 public policy of encouraging employees to be comfortable in addressing harassing or

1 discriminatory conduct by bringing it to the employer's attention.

2 193. Conduct similar to UNUM'S and COLONIAL LIFE'S will have a chilling effect
3 on employees reporting their concerns in the future.

4 194. UNUM and COLONIAL LIFE's conduct also violated their internal policies
5 against retaliation when an employee makes a good faith complaint.

6 195. Defendants' conduct was the direct and proximate cause of injury to
7 SCHOENWALD.

8 196. SCHOENWALD has been forced to seek legal counsel to pursue her valid legal
9 claims against Defendants and she is therefore entitled to reasonable attorney's fees.

10 197. Defendants are guilty of oppression, fraud, and/or malice, express or implied,
11 because Defendants knowingly and intentionally caused harmful and offensive contract to the
12 person of SCHOENWALD with the intention of, or reckless disregard for, the damages that it
13 was causing to SCHOENWALD.

14 198. Therefore, SCHOENWALD is entitled to collect punitive damages from WEBB
15 in an amount to be determined by a Jury.

16 **NINTH CAUSE OF ACTION**

17 **Violation of NRS 613.075**

18 **(SCHOENWALD Against UNUM and COLONIAL LIFE)**

19 199. Plaintiffs repeat and reallege the foregoing allegations as if fully set forth herein.

20 200. NRS 613.075 allows an employee to request a copy of her employee file within
21 sixty (60) days of termination.

22 201. SCHOENWALD was terminated on June 28, 2019. She requested a complete
23 copy of her personnel file on July 9, 2019.

24 202. SCHOENWALD'S request was within the timeframe required by NRS 613.075.

25 203. Defendants did not comply with SCHOENWALD'S valid request and still have
26 not provided a copy of her personnel file.

27 204. The Nevada Supreme Court has determined that there is a private right of action
28 under NRS 613.075.

205. SCHOENWALD has been forced to seek legal counsel to pursue her valid legal claims against Defendants and she is therefore entitled to reasonable attorney's fees.

TENTH CAUSE OF ACTION

Negligent Hiring, Training and Supervision

(SCHOENWALD Against UNUM and COLONIAL LIFE)

206. Plaintiffs repeat and reallege the foregoing allegations as if fully set forth herein.

207. Defendants had a duty to take reasonable action in the hiring, training and supervision of their employees.

208. Defendants had a duty to train their employees on applicable policies and procedures that must be followed when investigating a complaint such as that made by Plaintiffs in this matter.

209. Defendants had a duty to supervise their employees in a reasonable manner so as to assure that their employees were following all applicable policies and procedures.

210. Defendants had a duty to supervise all employees to assure that no employee was taking discriminatory, harassing, or other improper actions against another employee.

211. Ms. Harley did not follow UNUM'S and COLONIAL LIFE'S policies and procedures when she interrogated SCHOENWALD and retaliated against her.

212. WEBB did not follow UNUM'S and COLONIAL LIFE'S policies and procedures when he physically and verbally assaulted, harassed, and battered SCHOENWALD.

213. Defendants breached this duty by failing to properly train employees, including Ms. Harley, in the proper procedures and policies that must be followed when investigating a complaint like that made by Plaintiffs in this matter.

214. WEBB and Ms. Harley were joint employees of UNUM and COLONIAL LIFE when they breached policies and procedures and were further working within the course and scope of their employment.

215. UNUM and COLONIAL LIFE'S failure to adequately hire, train, and supervise Ms. Harley and WEBB was the direct and proximate cause of injury to SCHOENWALD.

...

216. SCHOENWALD has been forced to seek legal counsel to pursue her valid legal claims against Defendants and she is therefore entitled to reasonable attorney's fees.

PRAYER FOR RELIEF

WHEREFORE, Plaintiffs respectfully request that this Court enter judgment for Plaintiffs as follows:

1. Awarding judgment as appropriate and requiring Defendants to pay Plaintiffs' compensatory damages, consequential damages, special damages, and any other damages described herein and to be proven at trial, including back pay, and front pay, in an amount in excess of \$15,000.00;
2. Awarding prejudgment interest;
3. Awarding punitive damages;
4. Awarding Plaintiffs fees and costs associated with bringing this action, in addition to reasonable attorney's fees as provided by the United States and or the Nevada statutes; and
5. Granting such other and further relief as this Court deems necessary and proper.

JURY DEMAND

Plaintiffs HEATHER SCHOENWALD and TOM KOCH, by and through their respective attorneys, hereby demands trial of this matter by jury.

DATED this 21st day of October, 2020.

DATED this 21st day of October, 2020.

CLAGGETT & SYKES LAW FIRM

LAGOMARSINO LAW

/s/ Joseph N. Mott
SEAN K. CLAGGETT, ESQ. (#8407)
JOSEPH N. MOTT, ESQ. (#12455)
4101 Meadows Lane, Suite 100
Las Vegas, Nevada 89107
Tel: (702) 655-2346
Fax: (702) 655-3763
sclaggett@claggettlaw.com
joey@claggettlaw.com
Attorneys for Plaintiff Heather Schoenwald

/s/ Andre M. Lagomarsino
ANDRE M. LAGOMARSINO, ESQ. (#6711)
DAVEN P. CAMERON, ESQ. (#14179)
3005 W. Horizon Ridge Pkwy., Suite 241
Henderson, Nevada 89052
Telephone: (702) 383-2864
Facsimile: (702) 383-0065
aml@lagomarsinolaw.com
daven@lagomarsinolaw.com
Attorneys for Plaintiff Tom Koch